

REMARKS

Claims 25-33 are pending. The Office Action, mailed April 27, 2000, rejected Claims 26 and 27 under 35 U.S.C. § 112 ¶2, rejected Claims 25-33 under 35 U.S.C. § 102(b) and rejected Claims 26 and 27 under 35 U.S.C. § 103. By way of this amendment, Claim 25 has been amended. Pursuant to 37 C.F.R. 1.111, applicant hereby respectfully requests reconsideration of the application.

Rejection of Claims 26 and 27 under 35 U.S.C. § 112¶2.

The Office Action rejected Claim 26 under 35 U.S.C. § 112 ¶2 because the claim reference to “palm-top” is indefinite. The specification contains description of the use of the “palm-top computer” in the specification, from Page 8, Line 32 to Page 9, Line 4, Page 27, Lines 1-5, describing the use of the palm top computer as the microprocessor of the specification. The Office Action states no reason for finding the use of the term “palm-top computer” indefinite.

The Applicant respectfully suggests that it is appropriate for the Examiner to take Official Notice of the term “palm-top”, as in Paragraph 9 of the Office Action. MPEP 2144.03 entitled “Reliance on Common Knowledge in the Art or ‘Well Known’ Prior Art” states that an “examiner may take official notice of facts outside of the record which are capable of instant and unquestionable demonstration as being “well-known” in the art. The Cambridge International Dictionary of English, published by the Cambridge University Press, contains the following entry:

palmtop noun [C] a type of computer which is small enough to be able to fit in your hand. There are several palmtops available on the market. Some people say that the palmtop will replace the laptop computer, but others think that the palmtop is too small and fiddly to use.

Similarly the Columbia Encyclopedia, Fifth Edition contains the following article:

palmtop or hand-held personal computer, lightweight, small, battery-powered, general-purpose programmable computer. It typically has a miniaturized full-function, typewriterlike keyboard for input and a small, full color, liquid-crystal display for output. In addition to an operating system that is compatible with that

of a desktop computer, a palmtop will typically contain a word processor, a spreadsheet program, and a calendar and phone book. A variety of other programs can be loaded and executed, and data can usually be transferred to and from a desktop computer. Although some palmtops are like personal digital assistants in that they accept handwritten or touch screen input, they generally differ in that the palmtop has more memory, a keyboard, and a greater variety of available programs.

The Office Action rejected Claim 27 under 35 U.S.C. § 112 ¶2 because the claim reference to "personal digital assistant or PDA" is indefinite. Applicant respectfully suggests that it is appropriate for the Examiner to take Official Notice of the terms "personal digital assistant" and its commonly accepted abbreviation, "PDA." Indeed, in the Office Action, the Examiner does take Official Notice of the terms "palm top computer", "personal digital assistant" and "PDA" in the rejection of Claim 27 under 35 U.S.C. §103, in Paragraph 9 of the Office Action. The Office Action states no reason for finding the use of the terms "Personal Digital Assistant" or "PDA" indefinite.

As set forth above, MPEP 2144.03 entitled "Reliance on Common Knowledge in the Art or 'Well Known' Prior Art" states that an "examiner may take official notice of facts outside of the record which are capable of instant and unquestionable demonstration as being "well-known" in the art. As in Paragraph 9 of the Office Action, it is appropriate to take Official Notice of the term here. In the article entitled "Year in Review 1994: computers-and-info-systems" written by Edward S. Warner and published by the Encyclopedia Britannica in its 1994 yearbook, contained the following:

A battle was also shaping up in a new line of hardware. In August 1993 Apple introduced Newton, the first personal digital assistant (PDA), a pocket-size computer with a write-on screen instead of a keyboard.

The article goes on to describe the several companies that have introduced their own "personal digital assistants" or "PDA's" into the market. A similar descriptive article appears in the Columbia Encyclopedia, Fifth Edition, under the heading, "personal digital assistant":

personal digital assistant (PDA), lightweight, hand-held computer designed for use as a personal organizer with communications capabilities. A typical PDA has

no keyboard, relying instead on special hardware and pen-based computer software to enable the recognition of handwritten input, which is entered on the surface of a liquid crystal display screen. In addition to including such applications as a word processor, spreadsheet, calendar, and address book, PDAs are used as notepads, appointment schedulers, and wireless communicators for sending and receiving data, faxes, and electronic-mail messages. Introduced in 1993, PDAs achieved only modest acceptance during the remainder of the decade due to their relatively high price and limited applications.

Because of the common usage of the terms and because of Official Notice taken in the Office Action, the Applicant suggests the terms to be definite and that Claims 26 and 27 are in acceptable under 35 U.S.C. § 112 ¶2.

Rejection of Claims 25 through 33 under 35 U.S.C. § 102(b)

The Office Action rejected Claims 25-33 as being anticipated by *Fujimoto*. By this amendment, Applicant has amended Claim 25 to add the limitation of the use of a clearinghouse as an intermediary in communication between the patient-side unit and the health care provider-side unit. Due to the dependency of the remaining claims, Claims 26-33, each of the remaining claims as amended are similarly limited. *Fujimoto* neither teaches nor suggests the limiting use of the “clearinghouse” or “clearinghouse-like” intermediary in the signal communication between the two units.

Fujimoto, when practiced as taught, requires the direct connect, through a suitable electronic network, of the patient-side and the health care provider-side units. The *Fujimoto* invention teaches a communication much like that between two telephone units, in that both must be simultaneously operating in order to establish communication. In practical terms, either the health care provider or the patient must be “always on” in order to facilitate access one to the other.

As amended, Claim 25 and the remaining claims, all of which depend from Claim 25, use the clearinghouse as a “parking spot” for data, allowing the non-simultaneous transfer of data. This is a significant difference making the amended claims patentably distinct from the

disclosure of *Fujimoto*.

Rejection of Claims 25-33 under 35 U.S.C. § 103

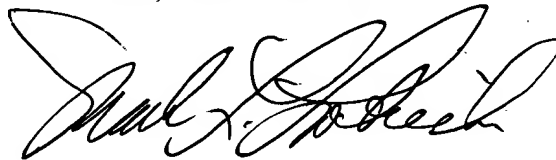
The Office Action rejected Claims 25-33 as being unpatentable over *Fujimoto* in view of *Fu et al.* Applicant has amended Claims 25-33, by adding an additional limitation, that of the clearinghouse, to Claim 25. As each of the pending claims is thus amended, thereby rendering this rejection moot. However, with respect to new Claims 25-33 applicant submits that *Fu et al.* fails to overcome the additional limitation of the clearinghouse not found in *Fujimoto* as noted above. Therefore, Claims 25-33 are allowable over *Fujimoto* and *Fu et al.*

CONCLUSION

If the examiner has questions, the examiner is invited to contact the applicant's attorney listed below.

Respectfully submitted,

Black, Lowe & Graham

A handwritten signature in black ink, appearing to read 'Mark L. Lorbiecki', with a large, stylized initial 'M'.

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